

CAKE CAR COMPANY,	:	Order Affirming Decision
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 91-12-A
NAVAJO AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	January 8, 1991

Appellant Cake Car Company seeks review of a September 12, 1990, decision of the Navajo Area Director, Bureau of Indian Affairs, concerning an order to cease and desist all selling activities within the exterior boundaries of the Navajo Indian Reservation. The decision, which was based on notification by DNA-People's Legal Services of irregularities concerning automobile sales on the reservation by appellant, states:

The complaint states a customer of Cake Car Company completed a credit application at the Bashas' parking lot in Chinle, Arizona. A vehicle was subsequently delivered to that person on the reservation. The vehicle, which the customer had not received an opportunity to physically examine, was delivered after dark and after further inspection, a headlight, sun visors and radio were missing.

Additionally, DNA-People's Legal Services advised that Cake's delivers the vehicles before financing is approved. When financing is not approved, Cake's recovers the vehicle and does not refund the down payment to the customer.

Title 25, Code of Federal Regulations, Part 141 provides for the rules and regulations for business practices on the Navajo, Hopi and Zuni Reservations. We can find no record of Cake Car Sales being licensed and bonded to retail sale transactions on the Navajo Reservation.

You are hereby ordered to cease and desist all selling activities within the exterior boundaries of the Navajo Indian Reservation. The order will remain in effect until such time as Cake Car Company is properly licensed and bonded.

Appellant's notice of appeal to the Board from this decision states in its entirety:

I do not agree with your actions to cease and desist all selling activities on the Navajo Reservation.

I would like to appeal this decision.

After receiving the administrative record, by notice of docketing dated November 13, 1990, the Board informed the parties of their right to file briefs. No briefs or other statements were filed.

In appeals arising under 25 CFR Part 2, the appellant bears the burden of proving that the agency decision complained of was erroneous or not supported by substantial evidence. See, e.g., Kays v. Acting Muskogee Area Director, 18 IBIA 431 (1990), and cases cited therein. In this case, the notice of appeal does not set forth any grounds for the appeal, and appellant has not filed a brief indicating those grounds. Because it has not given any reasons for the appeal, or attempted to show the error in the Area Director's decision, appellant cannot sustain its burden of proof.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, the September 12, 1990, decision of the Navajo Area Director is affirmed.

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Kathryn A. Lynn  
Chief Administrative Judge

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Anita Vogt  
Administrative Judge